

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ROBERT W. JOHNSON,

Plaintiff,

5:22-cv-523 (BKS/ATB)

v.

NICS, et al.,

Defendants.

Appearance:

Plaintiff pro se:

Robert W. Johnson
Watertown, NY 13601

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff pro se Robert Johnson filed a complaint labeled “whistleblower default judgment” on a form for civil rights complaints under 42 U.S.C. § 1983. (Dkt. No. 1). This matter was referred to United States Magistrate Judge Andrew T. Baxter who, on June 21, 2022, issued a Report-Recommendation recommending that the complaint be dismissed with prejudice in light of the frivolous nature of the complaint, coupled with Plaintiff’s “history of abusive, frivolous filings.” (Dkt. No. 5, at 5). Magistrate Judge Baxter advised Plaintiff that under 28 U.S.C. § 636(b)(1), he had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (*Id.* at 6–7). Plaintiff did not file an objection to the Report-Recommendation.¹

¹ Plaintiff filed a notice of appeal on July 11, 2022, “object[ing] to all alleged findings of facts for dismissal.” (Dkt. No. 6). This Court has jurisdiction to consider the Report-Recommendation despite the notice of appeal because the Report-Recommendation was not a final order or judgment and the notice of appeal was clearly premature. *Demuth v. Cutting*, No. 18-cv-795, 2020 WL 918739, at *1 n.1, 2020 U.S. Dist. LEXIS 32588, at *1 n.1 (N.D.N.Y. Feb. 26,

As no objection to the Report-Recommendation has been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is hereby

ORDERED that Magistrate Judge Baxter’s Report-Recommendation (Dkt. No. 5) is **ADOPTED**; and it is further


ORDERED that this action be **DISMISSED WITH PREJUDICE**; and it is further

ORDERED that the Clerk of the Court is directed to close this case; and it is further

ORDERED that the Clerk serve a copy of this Order on Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: July 26, 2022
Syracuse, New York


Brenda K. Sannes
U.S. District Judge

2020) (citing *United States v. Rodgers*, 101 F.3d 247, 252 (2d Cir. 1996), and *Burger King Corp. v. Horn & Hardart Co.*, 893 F.2d 525, 527 (2d Cir. 1990)). To the extent Plaintiff intended his submission to be an objection to the Report-Recommendation, it was untimely and, even if that deficiency were overlooked, his objection “to all alleged findings of facts for dismissal” was not a properly preserved objection. Properly raised objections must be “specific and clearly aimed at particular findings” in the report. *Molefe v. KLM Royal Dutch Airlines*, 602 F. Supp. 2d 485, 487 (S.D.N.Y. 2009). “[E]ven a pro se party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal” *Machicote v. Ercole*, No. 06-cv-13320, 2011 WL 3809920, at *2, 2011 U.S. Dist. LEXIS 95351, at *4 (S.D.N.Y. Aug. 25, 2011) (citation omitted).